

AY connecting to a PSTN when a communication link cannot be established with
said remote wireless transceiver.

REMARKS

This is in reply to the Examiner's Official Action dated April 23, 2003. Claims 1-17 and 30-46 are currently pending. By this Amendment, claims 1, 2, 5, 6, 30, 31 and 35 have been amended to more appropriately claim the invention. The above amendment with the following remarks is submitted to be fully responsive to the Official Action. Reconsideration of this application in light of these remarks, and allowance of this application are respectfully requested.

I. Information Disclosure Statement

On August 30, 1999, Applicants submitted an Information Disclosure Statement (IDS) to bring several documents to the Examiner's attention. Applicants note that the Examiner did not indicate that he had considered the IDS in the April 23, 2003 Official Action. Applicants respectfully request that the Examiner consider the listed documents and indicate that they were considered by making appropriate notations on the PTO Form 1449 filed with the IDS and returning the form to Applicants' representative.

II. Rejection Of Claims Under 35 U.S.C. § 112

On page 2 of the Official Action, the Examiner rejected claims 6 and 35 under 35 U.S.C. §112, second paragraph, as indefinite for failing to particularly point out and

distinctly claim the subject matter which applicant regards as the invention. Applicants have amended claims 6 and 35 to correct the informalities noted by the Examiner. It is therefore asserted that the claims are no longer indefinite. Applicants respectfully request that the Examiner withdraw the rejections of claims 6 and 35 under 35 U.S.C. § 112, second paragraph.

Applicants have made other minor amendments to claims 2, 5 and 31 to correct informalities identified by Applicants' representative. Those amendments are made without regard to any prior art reference, and not for reasons related to patentability, and should be not construed as a surrender or disclaimer of the scope of any subject matter claimed to which Applicants are entitled either literally or under the doctrine of equivalents.

III. Rejection of Claims Under 35 U.S.C. § 102(e)

On page 2 of the Official Action, the Examiner rejected claims 1, 2, 5, 7-10, 12, 13, 15, 16, 30, 31, 34, 36-39, 41, 42, 44, and 45 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 6,363,434 to Eytchison (hereinafter, Eytchison).

The present invention as recited in independent claim 1 is directed to a method of accessing an information system using a portable access device, the method comprising the steps of identifying a communication protocol associated with a first network server; attempting to establish a communication link between a portable access device and said first network server using one of a plurality of communication media, in accordance with said communication protocol, wherein said one of a plurality of

communication media is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN); and capturing data in a memory location in accordance with a failed attempt to establish said communication link. Independent claim 30 similarly recites a computer-readable medium containing instructions for accessing an information system comprising an access device and a plurality of network servers.

Anticipation under 35 U.S.C. §102(e) requires that each and every claim element be disclosed, either expressly or under principles of inherency, by the applied reference. Eytchison does not teach each and every claim element of claims 1 and 30, and therefore, as a matter of law, cannot anticipate those claims. That is, Eytchison fails to teach or disclose at least the step of:

attempting to establish a communication link between a portable access device and [a] first network server using one of a plurality of communication media, in accordance with said communication protocol, wherein said one of a plurality of communication media is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN),

In contrast, as recited in claims 1 and 30, according to Eytchison:

In the present embodiment, the user application 310 of FIG. 3 sends the request to the resource manager 320 in the form of an event list that indicates the source device, the destination device and the requested action. Thereafter, the resource manager 320 determines the availability of the source and destination devices, and checks whether sufficient bandwidth is available for carrying out the requested action. If the devices and the bandwidth are available, the resource manager 320 will return a "granted" signal and transmits the necessary control commands to the

software device proxies 370a-370i. The software device proxies 370a-370i then control the devices via IEEE 1394 bus interface 380. (emphasis added.)

(Id. at col. 6, line 64 – col. 7, line 9.)

In other words, Eytchison teaches that a user application sends an access request to a resource manager. When the resource manager grants the user's request, it transmits the necessary control commands to the destination device via software device proxies in the server. Simply stated, Eytchison does not teach attempting to establish a communication link between a portable access device and a first network server, because the resource manager (module in home server 214), not the source device (portable access device) establishes the communication link with the destination device (first network server). Eytchison further provides that when the communication link is established, "[t]he software device proxies 370a-370i then control the devices via IEEE 1394 bus interface 380." In other words, the software device proxies in the home server then control the devices. Therefore, the rejection of claims 1 and 30 under 35 U.S.C. §102(b) as anticipated by Eytchison should be withdrawn. Claims 2, 5, 31 and 34 incorporate the recitations of the independent claims from which they depend, and are therefore allowable for the same reason that claims 1 and 30 are allowable.

The present invention as recited in independent claim 7 is directed to a method of accessing an information system using a portable access device, the method comprising *inter alia*, transmitting said communication protocol to said portable access device. Independent claim 12 is similarly directed to a method of accessing an information system using a portable access device, the method comprising *inter alia*

transmitting said communication protocol from said first network server to said portable access device. Claim 36, likewise is directed to a computer-readable medium containing instructions for accessing an information system comprising an access device and a plurality of network servers, the method comprising *inter alia* transmitting said communication protocol to said portable access device. Claim 41 is correspondingly directed to a computer-readable medium containing instructions for accessing an information system comprising an access device and a plurality of network servers, the method comprising *inter alia* transmitting said communication protocol to said portable access device.

Eytchison does not teach each and every claim recitation of independent claims 7, 12, 36 and 41, and therefore cannot anticipate those claims. More specifically, Eytchison fails to teach, disclose or suggest *inter alia* “transmitting said communication protocol to said portable access device.” As previously stated, Eytchison teaches that a user application sends an access request to a resource manager. When the resource manager grants the user's request, it transmits the necessary control commands to the destination device via software device proxies in the server. Eytchison does not teach transmitting communication protocols to portable access devices, because the resource manager (module in home server 214), not the source device (portable access device), establishes the communication link with the destination device. Therefore, the rejection of independent claims 7, 12, 36 and 41 under 35 U.S.C. §102(b) as anticipated by Eytchison should be withdrawn. Claims 8-10, 13, 15, 16, 37-39, 42, 44 and 45

incorporate the recitations of the independent claims from which they directly or indirectly depend, and are therefore allowable for the same reason that claims 7, 12, 36 and 41 are allowable.

II. Rejection of Claims 6, 11, 14, 17, 35, 40, 43 and 46 Under 35 U.S.C. § 103(a)

In paragraph 5 of the Official Action, the Examiner rejects claims 6, 11, 14, 17, 35, 40, 43 and 46 under 35 U.S.C. § 103(a) as unpatentable over Eytchison in view of official notice. Claims 6, 11, 14, 17, 35, 40, 43 and 46 directly or indirectly depend from independent claims 1, 7, 12, 30, 36 and 41. According to the Examiner:

Eytchison only differs from the claims in that the portable devices are hardwired to the server as opposed to being connected in a wireless manner. However, examiner takes official notice that it is well-known in the art to establish data communication links using wireless connections. It would have been obvious to one of ordinary skill in the art to modify Eytchison to utilize wireless connections on the LAN illustrated in FIG. 2 so as to enhance the convenience of the user by eliminating the need to plug wires into the portable devices.

(April 23, 2003 Official Action at page 6.)

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be some reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the

reasonable expectation of success must both be found in the prior art, not in Applicants' disclosure.

In the Official Action, the Examiner states that the "examiner takes official notice that it is well-known in the art to establish data communication links using wireless connections." (March 26, 2003 Office Action at 7). This statement alone, with no suggestion or motivation within the references, is not enough. The Examiner is apparently taking Official Notice by relying on personal knowledge regarding the nature of "data communication links using wireless connections." The Examiner is respectfully reminded of the provisions of MPEP § 2144.03, and the precedents provided in *Dickinson v. Zurko*, 527 U.S. 150, 50 USPQ2d 1930 (1999) and *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). An Official Notice rejection is improper unless the facts asserted are well-known or common knowledge in the art, and capable of instant and unquestionable demonstration as being well-known. It is never appropriate to rely solely on "common knowledge" without evidentiary support in the record as the principle evidence upon which a rejection is based. Accordingly, Applicant traverses the Official Notice and requests that the Examiner either cite a competent prior art reference in substantiation of these conclusions, or else withdraw the rejection.

Moreover, Eytchison fails to disclose any suggestion or motivation to modify it in the manner the Examiner suggests. Even if the claimed invention is within the capabilities of one of ordinary skill in the art, this alone, is not sufficient to establish

prima facie obviousness. See M.P.E.P. § 2143.01. Consequently, the rejection does not meet this prong of the obviousness test.

Even if there were a motivation to combine reference teachings, Eytchison fails to teach or suggest all the claim elements of claims 6, 11, 14, 17, 35, 40, 43 and 46. Specifically, claims 1 and 30, as previously stated, recite “attempting to establish a communication link between a portable access device and said first network server using one of a plurality of communication media, in accordance with said communication protocol, wherein said one of a plurality of communication media is selected from the group consisting of: a local wireless LAN, a remote wireless LAN, a wireline LAN, and a Public Switched Telephone Network (PSTN).” Since Eytchison does not disclose, teach, or suggest all the claim elements of independent claims 1 and 30, and since dependent claims 6 and 35 incorporate the recitations of claims 1 and 30, they are therefore allowable for the same reason that claims 1 and 30 are allowable.

Claims 7, 12, 36, 41, as previously stated, recite “transmitting said communication protocol . . . to said portable access device.” Eytchison, as previously discussed, does not disclose, teach, or suggest this recitation. Therefore, claims 7, 12, 36 and 41 are allowable over Eytchison. Since claims 11, 14, 17, 40, 43 and 46 directly or indirectly depend from claims 7, 12, 36 and 41, they are allowable for the same reason that claims 7, 12, 36 and 41 are allowable.

III. Conclusion

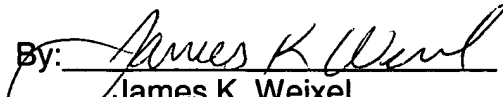
In view of the foregoing, it is submitted that the cited prior art fails to teach or suggest the Applicants' invention. Therefore, it is respectfully asserted that the present application is in condition for allowance and a notice to that effect is respectfully requested. However, if the Examiner deems that any issue remains after considering this response, he is invited to call the undersigned to expedite the prosecution and work out any such issue by telephone.

Prompt and favorable consideration of this application is requested.

Attached hereto is a marked-up version of the changes made to claims 1, 2, 5, 6, 30, 31, and 35 by this amendment. The attached page is captioned "**Version with markings to show changes made.**" Deletions appear as normal text surrounded by [] and additions appear as underlined text.

If any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this response, and not requested by attachment, such extension is hereby requested.
Please charge those fees to Deposit Account No. 07-2339.

Respectfully submitted,

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APPENDIX TO AMENDMENT OF FEBRUARY 15, 2003

IN THE CLAIMS:

Please amend claims 1, 2, 5, 6, 30, 31 and 35 as follows:

1. (Amended) A method of accessing an information system using a portable access device, the method comprising the steps of:

identifying a communication protocol associated with a first network server;

attempting to establish a communication link [with] between a portable access device and said first network server using one of a plurality of communication media, in accordance with said communication protocol, wherein said one of a plurality of communication media is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN);

and

capturing data in a memory location in accordance with a failed attempt to establish said communication link.

2. (Amended) The method of claim 1 wherein said step of identifying a communication protocol associated with said network server further comprises the following steps:

searching an internal database for a communication protocol associated with the first network server; and

retrieving said communication protocol from the internal database.

5. (Amended) The method of claim 1 wherein said step of attempting to establish a communication link with said first network server is further comprised of the following steps:

configuring said portable access device to transmit using one of a plurality of communication media, in accordance with said communication protocol;

verifying the availability of said communication medium; and

initiating communication between said portable access device and said network server along said communication medium.

6. (Amended) The method of claim 5 wherein said step of verifying the availability of a communication medium is further comprised of the following steps:

transmitting a signal from said portable access device to a local wireless LAN transceiver;

transmitting a second signal from said portable access device to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and

connecting to a PSTN when a communication link cannot be established with said remote wireless transceiver.

30. (Amended) A computer-readable medium containing instructions for accessing an information system comprising an access device and a plurality of network servers, the method comprising the steps of:

identifying a communication protocol associated with a first network server;

attempting to establish a communication link [with] between a portable access device and said first network server using one of a plurality of communication media, in accordance with said communication protocol, wherein said one of a plurality of communication media is selected from the group consisting of: local wireless LAN, remote wireless LAN, wireline LAN, and Public Switched Telephone Network (PSTN); and

capturing data in a memory location in accordance with a failed attempt to establish said communication link.

31. (Amended) The computer-readable medium of claim 30 wherein said step of identifying a communication protocol associated with said network server further comprises the following steps:

searching an internal database for a communication protocol associated with the first network server; and

retrieving said communication protocol from the internal database.

35. (Amended) The computer-readable medium of claim 34 wherein said step of verifying the availability of a communication medium is further comprised of the following steps:

transmitting a signal from said portable access device to a local wireless LAN transceiver;

transmitting a second signal from said portable access device to a remote wireless transceiver when a communication link cannot be established with said local wireless LAN transceiver; and

connecting to a PSTN when a communication link cannot be established with said remote wireless transceiver.